

REMARKS

Claims 1-14 have been examined. Claims 1 and 4 have been amended.
Reconsideration of the claims, as amended, is respectfully requested.

Claim Rejections - 35 U.S.C. § 112

Claim 4 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. More specifically, the Office Action refers to the language of "two tabs". As set forth in Applicant's previously response, it is believed that the specification provides support for such a limitation. However, in order to expedite prosecution, claim 4 has been amended to recite that the part includes two slits. Support for such language may be found at, for example, page 5, lines 7-9. Hence, it is respectfully requested that the §112, second paragraph, rejection of claim 4 be withdrawn.

Claim Rejections - 35 U.S.C. § 102

Claims 1-5, 6-8 and 10 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Borkenstein. This rejection is respectfully traversed.

In Applicant's previous response, Applicant explained that one of the differences between claim 1 and the Borkenstein patent is the use of a filter having an elastically deformable part that is coupled to a disk. Nowhere in the Borkenstein patent is such a filter described. At page 2 of the Office Action, the Office Action is evidently interpreting a portion of filter paper (18) which is placed against a disk (16) to be analogous to the filter of claim 1. However, disk (16) is clearly not coupled to filter paper (18). Further, filter paper (18) clearly does not have an elastically deformable portion.

Moreover, claim 1 of the present invention requires the use of a spring that presses the elastically deformable part of the filter against the walls of a tube. As described in Applicant's previous response, the spring (21) in Borkenstein does not press against filter paper (18) but bears directly against tube (12). Hence, claim 1 is distinguishable for this additional reason.

Interestingly, at page 5 of the Office Action, the Office Action now characterizes tube (11) of Borkenstein to be analogous to the tube of claim 1, rather than tube (12) as recited in page 2 of the Office Action. However, in either case, these interpretations do not read on claim 1 of the present invention. As just described, spring (21) does not bear against any filter paper but bears directly against tube (12) (if tube 12 is analogous to the tube of claim 1). If the tube (11) is being characterized as being analogous to the tube of claim 1, then cartridge (10) clearly cannot be equivalent to an elastically deformable part of a filter as claimed in claim 1 because cartridge (10) is constructed of a glass tube and would explode if it were elastically deformed to place it into contact with tube (11).

Still further, the Office Action recites that clip (21) is used to keep the cartridge from moving. This is clearly not the case in Borkenstein. Rather, in Borkenstein the spring clip (21) retains the filter paper within tube (12) - not tube (12) within tube (11) as is recited in the Office Action.

Hence, the Borkenstein patent clearly does not anticipate claim 1, and it is respectfully requested that the §102 rejection of claim 1 in view of Borkenstein be withdrawn for at least these reasons. However, in order to expedite prosecution, claim 1 has been amended to recite that the disk and the deformable part are a single piece. In contrast, the disk and filter paper of Borkenstein are clearly two different pieces. Further, claim 1 has been amended to clarify that the spring presses the elastically deformable part of the filter against the walls of the tube. As previously described, tube (12) is not a filter having an elastically deformable part that is pressed against another tube (11) as characterized in the Office Action. Hence, it is respectfully requested that the rejection of claim 1 be withdrawn for at least these additional reasons. Claims 2-4, 6-8 and 10 depend from claim 1 and are distinguishable over the Borkenstein patent for at least the reasons previously recited.

Claim Rejections - 35 U.S.C. § 103

Claims 6, 9 and 11-14 have been rejected under 35 U.S.C. § 102(a) as being unpatentable over Borkenstein in view of Paul. Claims 6, 9 and 11-14 depend from claim 1 which is distinguishable over Borkenstein for at the least reasons previously recited. Since the

Appl. No. 10/042,615
Amdt. dated April 13, 2005
Reply to Office Action of February 16, 2005

PATENT

Paul patent also fails to teach or suggest such limitations, claims 6, 9 and 11-14 are distinguishable and in condition for allowance.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


Darin J. Gibby
Reg. No. 38,464

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (303)-571-4000
Fax: (303) 571-4321
DJG/cl
60466979 v1